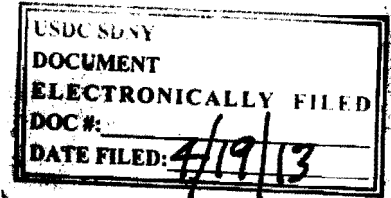


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x  
UNITED STATES OF AMERICA,



-against-

S13 98 Crim. 1023 (LAK)

SULAIMAN ABU GHAYTH,

Defendant.  
----- x

**ORDER**

LEWIS A. KAPLAN, *District Judge*.

Defendant's counsel has requested that the defendant, who is detained in the Metropolitan Correctional Center ("MCC") pending trial, be permitted to make one monitored telephone call every ten days rather than the one 15 minute call every thirty days that currently is permitted. He suggests that the present restriction infringes on defendant's constitutional rights.

The government resists the application. It contends that the MCC is providing the defendant with social telephone calls in accordance with institution policies and consistent with the manner in which similarly situated inmates in the SHU are treated and that those policies and practices are appropriate in light of the impact of any greater liberality on matters of proper administrative concern. In addition, it points out that the defendant has failed to avail himself of administrative remedies available to him and contends that this failure to exhaust administrative remedies forecloses this Court from considering the merits of his argument whether considered in light of 42 U.S.C. § 1997e(a) or as analogous to a petition for a writ of habeas corpus under 28 U.S.C. § 2241.

In the circumstances, the Court concludes that it would not be appropriate to attempt to resolve this dispute on the basis of an exchange of letters. If defendant wishes to press the matter, he may file a motion in this case (which is not to suggest any view, one way or the other, as to whether this Court has authority to make any order with respect to conditions of pretrial detention in a criminal case against the detainee), a petition under 28 U.S.C. § 2241, or such other application as he may think appropriate.

SO ORDERED.

Dated: April 19, 2013

A handwritten signature in black ink, appearing to read "Lewis A. Kaplan".  
\_\_\_\_\_  
Lewis A. Kaplan  
United States District Judge